REMARKS

In order to address the confusion regarding the previously submitted Preliminary Amendment and the copy of the claims of record, Applicants have, as suggested by the Examiner, cancelled claims 1-18 and added new claims 19-34. These claims find support in the application as originally filed and are essentially the same as filed during the International Phase of the PCT application. No new matter has been added.

Claims 1, 3, 6, 7 and 11-17 have been rejected under 35 U.S.C. 102(a) and (b) as allegedly being anticipated by Burns et al (EP 0 375 624). Applicants respectfully traverse.

The Examiner states that Burns et al. teach the utility of JEFFAMINE® 230 surfactant (compound II; Example IV, p. 6-7) in herbicidal compositions, which may have glyphosate, among other herbicides, as the active agent.

The present Independent claim 19 contains a proviso that excludes JEFFAMINE® 230, therefore, Applicants argue that the claims of record are novel over Burns et al. and the rejection is rendered moot.

Claims 1-18 have been rejected under 35 USC 103(a) as allegedly being unpatentable over Burns et al., Cutler et al. (US 6,117,820) and Huntsman. Applicants respectfully traverse.

Burns et al. has been discussed above.

The Examiner claims Cutler "teaches compositions comprising glyphosate, fomesafen, glufosinate, paraquat, or bentazone, in combination with an alkoxylated surfactant, an alkylpolyglycoside ... and a co-surfactant (abstract). Ethoxylated amines are listed among the possible cationic surfactants."

Huntsman teaches that the JEFFAMINE® surfactants are known.

According to the Examiner, "it would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to have combined applicants' alkoxylated amine surfactants with glyphosate, fomesafen, or paraquat, and optionally with an alkylpolyglycoside, because Cutler et al teaches that each of these components may be useful in a single composition, and because Burns et al teaches the example of one of the specific polyalkoxylated amines in herbicidal compositions. One of ordinary skill in the art would expect other polyalkoxylated amine surfactants to have utility in herbicidal compostions."

It is conceded therefore that JEFFAMINE® amines are commercially available products. However an enormous range of many thousands of commercial products are available for use as potential agrochemical adjuvants to those skilled in the art. Very few of the available products

effectively enhance the biological activity of the agrochemical. Furthermore, there is a need in the industry for adjuvants that not only enhance the biological activity of the agrochemical but also combine this property with other desirable features such as a favourable toxicological profile and excellent low-foaming properties (page 8, line 29 to page 9, line 9 of the application as filed).

Burns discloses the salt of an acidic agrochemical and a narrow range of diamines including JEFFAMINE® D-230. Glyphosate is listed as an example of an acidic agrochemical. In contrast to Burns, the present invention seeks to solve the problem of increasing the activity of agrochemicals (page 1, lines 5 to 18 of the instant application) and the Examples of the present application show significant enhancement of activity. In contrast, Burns seeks to reduce the volatility of biologically active compounds (page 1, lines 1 to 10 of Burns). Glyphosate is mentioned in the text, although in practice glyphosate does not suffer from a problem of volatility, and salts of glyphosate are not exemplified. There is apparently an underlying assumption that forming a salt to reduce volatility may be expected to reduce the biological activity, presumably since some agrochemicals are active via the vapour phase. It is actually stressed in Examples 6 and 7 of the Burns reference (which report the activity of salts of the combination of dicamba-2,4-D) that all the formulations give substantially the same weed control as DMA (dicamba in dimethylamine salt form) formulations "showing that the various salts do not affect activity" or injury rate. There is clearly a strong teaching in Burns therefore that the formation of a salt of an acidic agrochemical with a diamine such as JEFFAMINE® D-230 will at best maintain the activity of the agrochemcical. One skilled in the art will therefore be discouraged in using the teaching of Burns when seeking to increase the activity of an agrochemical.

Cutler et al disclose a complex formulation consisting of (a) an agrochemical electrolyte such as glyphosate, (b) an alkoxylated adjuvant, (c) an alkylglycoside and (d) a co-surfactant which interacts with the alkylglycoside to form a structured aqueous system. The function of the co-surfactant is thus to form a "structured" or "gel-like" system which enhances the stability of a formulation which would be physically unstable in the absence of the co-surfactant (col. 2, lines 3 to 23). In addition to components (a) to (d), there may be optionally added an ionic surfactant (component e, col. 5, lines 35 to 40). The function of this additional component is to enhance high temperature stability (col. 5, lines 35 to 47). Its function is specific to the complex formulation disclosed in Cutler et al and is primarily to provide high-temperature stability, although col. 5, lines 65 to 67 indicates that in some instances the additional ionic surfactant may provide an increase in the activity of the composition. As stated by the Examiner, amongst a long list of possible ionic surfactants there is mentioned "ethoxylated amines". However the term "ethoxylated amines" is a generic term that covers a vast range of compounds. Even if one skilled in the art were motivated to select one optional component (e) from the formulation, ignore its primary purpose as a high-

temperature stability enhancer, there would still be no motivation to select the highly specific class of ethoxylated amines represented by the JEFFAMINE® products. Reference to the Examples of Cutler et al show that the type of ethoxylated amine the inventors focused on for component (e) were products such as ETHOMEEN® C25 or T25 which are ethoxylated cocoamine and tallowamine respectively (Examples 2 and 3 of Cutler).

It is submitted that Huntsman, Burns et al and Cutler et al, either alone or in combination, fail to teach or reasonably suggest the compositions of the present invention or the advantages demonstrated in Examples 1-17 of the instant application.

In view of the above amendments and arguments, Applicants respectfully submit that the rejections under 35 U.S.C. § 102(b) and 103(a) have been overcome and hereby request that this application be passed to issue.

As this response is submitted within four (4) months from the mailing date of the Office Action, a one-month extension of time is included herewith.

However, in the event the undersigned is mistaken in his calculations, an appropriate extension of time to respond is respectfully requested, and the Commissioner is authorised to debit the appropriate fee for that extension, or any other fee, from the deposit account of the undersigned, no 50-1676 in the name of Syngenta Crop Protection, Inc.

Respectfully submitted,

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